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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,928	03/31/2004	Admir James Mesalic	MES1.002	5800
39863	7590	05/18/2006	EXAMINER	
SONNABENDLAW 600 PROSPECT AVE BROOKLYN, NY 11215			EDEL, JOSEPH F	
			ART UNIT	PAPER NUMBER
			3636	
DATE MAILED: 05/18/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/813,928	Applicant(s) MESALIC ET AL.	
	Examiner Joseph F. Edell	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 06 March 2006.
- 2a) ☒ This action is FINAL.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 6-12 and 35-43 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) ~~6-12~~ <sup>43</sup> and 35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the skid resistant portions of the bottom side (claim 10) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Objections***

2. Claim 8 is objected to because of the following informalities: claim 8 should include a period to end the claim. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 6-12, 35, 39, and 41 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,999,221 to Hannigan.

Hannigan discloses a protective covering that includes all the limitations recited in claims 6-12, 35, 39, and 41. Hannigan shows a protective covering having a main protective portion/main placemat area (See Fig. 2), a front protective portion/at least one side flap (see Fig. 1) attached to the main protective portion, two side protective portions/side flaps (see Diagram A below) with left and right sides and orthogonal to the front protective portion, and a coupling element 22,24 of the side protective portions that is ribbon ties, and a bottom side of the main protective portion including skid resistant portions 46,48 wherein the front protective portion is capable of attaching to a front arm

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portion of a child's chair and to extend from a table top to the child's chair, the main protective portion including a pocket 44 (Fig. 1) formed therein.

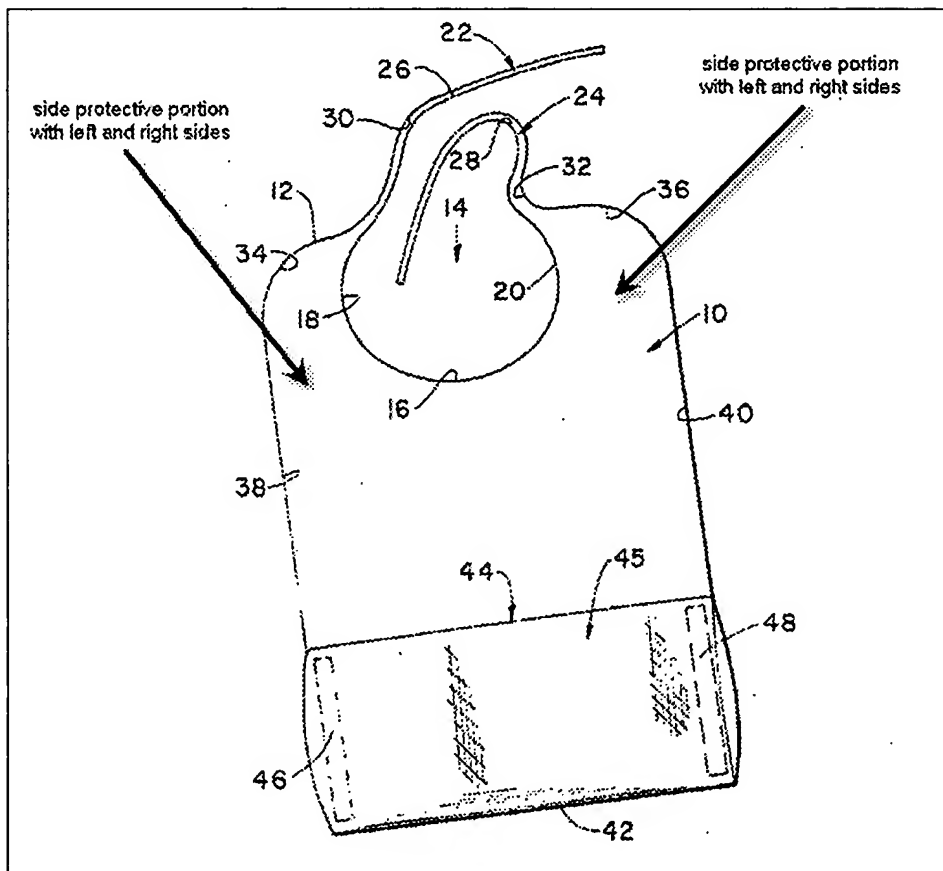


Diagram A - Annotated Figure 1 of Hannigan

5. Claims 6-9, 12, 35, 36, 39, and 40 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,786,256 B2 to Sugawara.

Sugawara discloses a protective covering that includes all the limitations recited in claims 6-9, 12, 35, 36, 39, and 40. Sugawara shows a protective covering having a main protective portion/main placemat area 2 (see Fig. 1) with top and bottom surfaces

of vinyl (column 3, lines 1-5), a front protective portion/at least one side flap 5,6 attached to the main protective portion and including a coupling element 8 that is hook and loop fasteners, two side protective portions/flaps extending 5 from a side of the main placemat area, and a pocket (Fig. 10) on the top surface of the main placemat area wherein the front protective portion is capable of attaching to a front arm portion of a child's chair and to extend from a table top to the child's chair, the two side protective portions are capable of attaching to orthogonal side arm portions of the child's chair, the side flaps are longer than the front flap, the side flaps and front flap form a U-shaped opening facing away from the main placement area.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 37 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sugawara in view of U.S. Patent No. 4,627,363 to Jones.

Sugawara disclose a protective covering that is basically the same as that recited in claim 37 and 38 except that the front flap lacks coupling elements, as recited in the claims. See Figure 1 of Sugawara for the teaching that covering has a front flap extending between the side flaps. Jones shows a protective covering similar to that of Sugawara wherein the protective covering 1 (see Fig. 1) has a free ends with coupling

elements 2,6 of hook and loop fasteners. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the protective covering of Sugawara such that the front flap has coupling elements of hook and loop fasteners, such as the protective covering disclosed in Jones. One would have been motivated to make such a modification in view of the suggestion in Jones that the coupling elements allow for attachment of free ends of the covering underneath the table to further secure the covering.

8. Claims 42 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sugawara in view of U.S. Patent No. 3,920,870 to Ackerman et al.

Sugawara disclose a protective covering that is basically the same as that recited in claims 42 and 43 except that the top and bottom surfaces lack an intermediate layer and a translucent top surface, as recited in the claim. Ackerman et al. show a protective covering similar to that of Sugawara wherein the protective covering has a top surface 10 (see Fig. 2) that is translucent, a bottom surface 12, and an intermediate layer 14 of printed fabric. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the protective covering of Sugawara such that the top surface is translucent and the placemat area includes an intermediate layer of printed fabric, such as the protective covering disclosed in Ackerman et al. One would have been motivated to make such a modification in view of the suggestion in Ackerman et al. that the intermediate layer and translucent top surface allows for a decorative placemat with interchangeable intermediate layer.

***Response to Amendment***

9. The amendment to the claims filed on 06 March 2006 does not comply with the requirements of 37 CFR 1.121(c) because the claim identifier of claims 13-30 is incorrect. Any response to this Office Action should correct this error.

***Response to Arguments***

10. Applicant's arguments filed 06 March 2006 have been fully considered but they are not persuasive. The claimed invention is toward a protective covering. Any recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. Amended claim 6 recitation of side protective portions adapted to attach around side arm portions of a child's chair is considered intended use, which does not patentably distinguish the protecting covering of the instant application from the teachings of Hannigan. The side protective portions of the protective covering in Hannigan is capable of attaching around side arm portions of a child's chair, and, therefore, claim 6 is anticipated by Hannigan. Similarly, amended claim 8 reciting the coupling element is for operatively connecting the left side of one side protective portion to the right side of the side protective portion is considered intended use, which does not patentably distinguish the protecting covering of the instant application from the teachings of Hannigan. The coupling element of Hannigan



is capable of connecting the sides of the side protective portion by wrapping around the side protective portion, and, therefore, claim 8 is anticipated by Hannigan.

With respect to Sugawara, Applicant asserts that the side protective portions of Sugawara's covering would be incapable of attaching around side arm portions of a child's seat because the mating configuration of the fasteners prevents this attachment. However, Sugawara discloses a number of methods attachment that would allow side protective portions to attach around side arm portions of a child's seat. For instance, the ties 11 could easily wrap around side arm portions of a child's seat such that the left side of one side protective portion connects to the right side of this portion. Therefore, the covering of Sugawara is capable of the intended use recited in claims 6, 8, and 35.

With respect to claim 10, the drawings remain objected to under 37 CFR 1.83(a) because the claimed skid resistant portions are not shown in the drawings. Applicant argues that the tape straps do not meet the limitation of claim 10 because the straps are used to form the pocket 44. However, the pocket is an optional feature of the covering disclosed by Hannigan. Claim 10 recites that the bottom side of the main protective portion includes skid resistant portions. When the tap straps of Hannigan are not being utilized in forming the pocket, the tape straps meet the limitation of the skid resistant portions of claim 10 because the tap straps would resist skidding of the protective covering when laid upon a surface.

With respect to the limitations of claim 37, Applicant argues that front flap of Sugawara does not has no structure to couple it to anything. See the above rejection for motivation to modify the covering of Sugawara. The teachings of Sugawara in view

of Jones need merely be capable of release coupling of the covering to a front arm of a chair.

The rejection under 35 USC 103(a) drawn toward claims 42 and 43 was argued solely on the premise that the cited art does not teach or suggest the placemat recited in amended claim 35, and as a result the above 35 USC 103(a) rejection of claim 42 and 43 remains.

### ***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JE  
May 14, 2006



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